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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 GURDEV SINGH,) Case No. 08cv0464 BTM (JMA)
11 Petitioner,) [A42-967-796]
12 vs.) GOVERNMENT'S EX PARTE REQUEST
13 MICHAEL CHERTOFF, Secretary of) TO HOLD CASE IN ABEYANCE
Homeland Security, et al.,) AND ORDER STATUS REPORT
14 Respondents.)
15

The parties have submitted their briefs for decision in this case. The Court should hold its decision in abeyance and order the filing of a status report in sixty days to permit Petitioner to request and obtain bond review before an Immigration Judge (“IJ”) and, in the event of an appeal, the Board of Immigration Appeals (“BIA”). According to two recent Ninth Circuit decisions, a detained petitioner who was subject to mandatory detention pending administrative proceedings may be entitled to bond review before an IJ pending a petition for review and a stay of removal. See Prieto-Romero v. Clark, -- F.3d --, 2008 WL 2853396 (9th Cir. July 25, 2008); Casas-Castrillon v. D.H.S., -- F.3d --, 2008 WL 2902026 (9th Cir. July 25, 2008). According to the decisions, 8 U.S.C. § 1226(a) governs detention pending a petition for review and stay of removal. It is the Government’s position that the Immigration Court and the BIA have bond review jurisdiction when the Department of Homeland Security (“DHS”) exercises its bond authority under 8 U.S.C. § 1226(a). See 8 C.F.R. §§ 1003.1(b)(7), 1003.38, 1236.1(d). Therefore, Petitioner may submit a written request for a bond hearing in accordance with the Immigration Court Practice Manual (available at <<http://www.usdoj.gov/eoir>>).

In light of Casas and Prieto and ongoing efforts to implement the decisions,^{1/} and without waiving the Government’s defenses in this action, the Government respectfully requests that this Court hold these proceedings in abeyance and order the filing of a status report in sixty days to allow Petitioner to seek and obtain bond review before the Immigration Court and, in the event of an appeal, the BIA.

DATED: August 13, 2008

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s/ *Samuel W. Bettwy*

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^{1/} This Office and the Office of Immigration Litigation in Washington, D.C., have been coordinating with the Executive Office for Immigration Review (“EOIR”), which manages the IJs and the BIA, concerning implementation of the recent decisions.